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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

HONORABLE DAVID O. CARTER, JUDGE PRESIDING

- - - - -

UNITED STATES OF AMERICA,

Plaintiff,

vs.

1) NADER SALEM ELHUZAYEL;

2) MUHANAD ELFATIH M.A. BADAWI,

Defendants.

CERTIFIED

No. 8:15-CR-0060-DOC
Day 6, Volume I

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Tuesday, June 14, 2016

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I N D E X**Jury Trial - Day 6, Volume I****PROCEEDINGS****PAGE**

Discussion re Juror No. 6	6
Voir Dire of Juror No. 6 by the Court	8
Voir Dire of Juror No. 6 by Ms. Corrigan	10
Further Voir Dire by the Court	11
Thomas Ropel III - witness	16
Audio Played, Transcript Displayed - Exhibit Nos. 1011, 1011-A	21
Audio Played, Transcript Displayed - Exhibit Nos. 1012/1012-A	26
Video Played, Transcript Displayed - Exhibit No. 1/1A	44
Video Played, Transcript Displayed - Exhibit No. 2/2A	47
Audio Played, Transcript Displayed - Exhibit No. 701	55

WITNESSES**WITNESSES****DIRECT CROSS REDIRECT RECROSS**

ROPEL III, Thomas

By Ms. Heinz 16

EXHIBITS**EXHIBIT NO./DESCRIPTION****IDENTIFICATION****IN EVIDENCE**

1	QuickTime Video	44
1-A	Trancript and translation of Exhibit No. 1	44

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

EXHIBIT NO./DESCRIPTION	IDENTIFICATION	IN EVIDENCE
2 QuickTime video		47
2-A Transcript of Exhibit 2		47
1011 Audio recording excerpt of FBI interview of Defendant Badawi 5/21/2015		20
1011-A Transcript and translation of Exhibit 1011		20
1012 Audio recording excerpt of Badawi interview on 5/21/2015		25
1012-A Transcript and translation of Exhibit 1012		25
1013 FBI Advice of Rights (Miranda waiver)		19
1014 Screen shot from Defendant Badawi's Twitter page showing Abu Malik al-Tamimi		22
1015 Screen shot from Defendant Badawi's Twitter page		22

1 **SANTA ANA, CALIFORNIA, TUESDAY, JUNE 14, 2016**

2 **Day 6, Volume I**

3 (8:06 a.m.)

08:06 4 *(Outside the presence of the jury.)*

08:06 5 THE COURT: All right. Then we're back on the
6 record. The defendants are present. Counsel are present.
7 All parties are present.

08:06 8 **DISCUSSION RE JUROR NO. 6**

08:06 9 THE COURT: And, Counsel, would this be a good
10 time to talk to Juror No. 6, Anthony Traviglia, about any
11 association he might have with Mr. Elhuzayel?

08:06 12 He's the gentleman who approached Deb yesterday and
13 said he was at Citrus.

08:07 14 MS. CORRIGAN: Cypress, Your Honor.

08:07 15 THE COURT: And didn't know if he knew the
16 defendant.

08:07 17 MS. CORRIGAN: Your Honor, it's Cypress. And I
18 thought it was as to Mr. Badawi.

08:07 19 THE COURT: Did I say "Elhuzayel"? I apologize.
20 I mean, Mr. Badawi. Of course, he's at Citrus *(sic)*,
21 Counsel.

08:07 22 MS. CORRIGAN: And I do have information just --
23 or, yes, I do think it's appropriate.

08:07 24 But my understanding is that my client attended
25 Cypress during the Spring of 2015. And yesterday the agent

DEBBIE GALE, U.S. COURT REPORTER

1 also -- not the agent -- Ms. Mendoza testified about, at
2 least, the -- what do you call it -- the Pell Grant moneys.
3 And two of the items listed were for Cypress.

08:07 4 THE COURT: Okay.

08:07 5 MS. HEINZ: Yes, I believe that's true. I think
6 that there -- I believe one or more of the defendants may
7 have also attended Fullerton College. But I don't know that
8 that is at issue here with this particular juror.

08:08 9 MS. CORRIGAN: I would agree with that.

08:08 10 THE COURT: I know that the Pell and the
11 FASA (*sic*) -- or grant -- those are directed towards
12 Cypress.

08:08 13 MS. CORRIGAN: Cypress and Fullerton College.

08:08 14 THE COURT: And Fullerton College?

08:08 15 MS. CORRIGAN: Yes.

08:08 16 THE COURT: But did your client ever attend
17 Citrus? I heard that he did briefly, but I may've misheard
18 that.

08:08 19 MS. CORRIGAN: Citrus, no. I thought the juror
20 was questioning Cypress. It's not Citrus.

08:08 21 THE COURT: (*To the clerk:*) Deb, could you tell us
22 whether he said "Cypress" or "Citrus"?

08:08 23 THE CLERK: I thought it was Cypress.

08:08 24 THE COURT: Cypress? Let's find out. Let's bring
25 the gentleman out and be certain, and just by himself.

08:08 1 Do you want me to question him also as to
2 Mr. Badawi and Mr. Elhuzayel? In other words, I don't know
3 if Mr. Elhuzayel attended Cypress or Fullerton.

08:09 4 MR. LENGYEL-LEAHU: Cypress and Fullerton.

08:09 5 THE COURT: He attended Cypress and Fullerton?

08:09 6 MR. LENGYEL-LEAHU: Yes.

08:09 7 THE COURT: Okay. Well, it's mixed information,
8 and probably lost in hearsay in the story being related to
9 me. So let's find out quickly on the record. Let's find
10 out the years that the juror attended, see if there's any
11 overlap.

08:10 12 THE CLERK: He's not here yet.

08:10 13 THE COURT: Counsel, he's not here yet. He's
14 consistently late, but I know he's attempting to get here.

08:10 15 *(To the clerk:)* Are the rest of the jurors here,
16 Deb?

08:10 17 Let's wait for that juror, bring him into court,
18 and discuss this issue of whether he knows either of the
19 defendants.

08:10 20 *(Court and clerk confer.)*

08:10 21 *(Juror No. 6 escorted into courtroom.)*

08:10 22 THE COURT: If you'll come in and have a seat.

08:10 23 This is Anthony Traviglia, Juror No. 6.

08:10 24 **VOIR DIRE BY THE COURT**

25

08:10 1 BY THE COURT:

08:10 2 Q. Mr. Traviglia, yesterday you'd approached Deb and you
3 were concerned about whether you might know either one or
4 both of the defendants.

08:11 5 Did you attend Cypress?

08:11 6 A. Not at the years -- once I saw the years that he's
7 attended Cypress, we went -- he switched to Fullerton when I
8 went to Cypress.

08:11 9 Q. So what years were you at Cypress?

08:11 10 A. From 2014 summer to now.

08:11 11 Q. At Cypress?

08:11 12 A. Yeah.

08:11 13 Q. So you were at Cypress 2014 during the summer, until
14 now?

08:11 15 A. Yeah.

08:11 16 Q. And do you recognize either of the gentlemen: Either
17 Mr. Badawi, who's the person in the first row next to
18 Ms. Corrigan, or Mr. Elhuzayel, who's the gentleman in the
19 back row, to the right of Counsel, Mr. Lengyel-Leahu?

08:11 20 A. No.

08:11 21 Q. Have you had -- have you ever had any conversation with
22 'em?

08:12 23 A. No.

08:12 24 Q. Obviously, if you don't recognize 'em, you probably
25 didn't have conversation with 'em.

08:12 1 A. Right.

08:12 2 Q. And, once again, did you attend Fullerton also?

08:12 3 A. No, I did not.

08:12 4 Q. So it's been Cypress, since the summer of 2014 --

08:12 5 A. Yeah.

08:12 6 Q. -- until today's date?

08:12 7 A. Yeah. Once I saw the transcripts, my concerns were off

8 the table.

08:12 9 Q. When it was up on the screen and you saw the words

10 coming across the bottom?

08:12 11 A. Yeah. Once I looked at the years.

08:12 12 THE COURT: Okay.

08:12 13 Counsel, do you have questions on behalf of the

14 government or the defense? And let me begin with the

15 government.

08:12 16 MS. HEINZ: No questions, Your Honor.

08:12 17 THE COURT: Ms. Corrigan, please.

08:12 18 MS. CORRIGAN: Just briefly. Sounds like you used

19 two different dates. During the spring of 2015 is when I

20 specifically would like to have the inquiry made.

08:12 21 THE COURT: Please. I'm gonna let both of you ask

22 questions.

08:12 23 MS. CORRIGAN: Thank you.

08:12 24 **VOIR DIRE BY MS. CORRIGAN**

25

08:12 1 BY MS. CORRIGAN:

08:12 2 Q. During the spring semester -- uh, is it semesters?

08:12 3 A. Yeah, semesters.

08:12 4 Q. Semesters. Were you there during the Spring of 2015?

08:12 5 A. Um, yes.

08:12 6 Q. Okay. And do you recall what classes you took?

08:12 7 A. Yeah. I took -- I had English 60.

08:13 8 Q. Okay.

08:13 9 A. And U.S. History.

08:13 10 Q. Okay. And were those daytime classes or evening

11 classes?

08:13 12 A. Daytime.

08:13 13 Q. Early in the morning?

08:13 14 A. One started at 9:00, the English did.

08:13 15 Q. Okay.

08:13 16 MS. CORRIGAN: Thank you, Your Honor.

08:13 17 THE COURT: Mr. Lengyel-Leahu, do you have

18 questions?

08:13 19 MR. LENGYEL-LEAHU: No. Thank you, Your Honor.

08:13 20 THE COURT: All right.

08:13 21 **FURTHER VOIR DIRE BY THE COURT**

08:13 22 BY THE COURT:

08:13 23 Q. So let me be once -- certain, once again, and that is,

24 you were there the spring of 2015?

08:13 25 A. Yes.

08:13 1 Q. Not the summer, but the spring of 2015, through today's
2 date?

08:13 3 A. Yes.

08:13 4 Q. You tell me.

08:13 5 A. I started -- I took my first college class August of
6 2014.

08:14 7 Q. Okay. And was that at Cypress?

08:14 8 A. Yes.

08:14 9 Q. That's what I thought.

08:14 10 And did you then go to school continuously from
11 August 2014 -- well, you tell me. You tell us your
12 attendance.

08:14 13 A. I still go to Cypress. I've been to Cypress the last
14 four semesters.

08:14 15 Q. Four semesters?

08:14 16 A. Yes.

08:14 17 Q. So have you been there continuously? In other words,
18 the spring? Winter?

08:14 19 A. Actually --

08:14 20 Q. Fall?

08:14 21 A. Yes.

08:14 22 Q. Okay. So I'm gonna start again.

08:14 23 A. I'm confused --

08:14 24 Q. You started August of 2014; is that correct?

08:14 25 A. Yes.

08:14 1 Q. All right. So that would be Fall.

08:15 2 And then you attended -- is there a winter session?

08:15 3 A. I didn't go to the winter session.

08:15 4 Q. Okay. You weren't there in the winter session.

08:15 5 A. No.

08:15 6 Q. And then in Spring of 2015, did you attend again?

08:15 7 A. Yes. And then --

08:15 8 Q. What month did you start?

08:15 9 A. I started in January.

08:15 10 Q. January?

08:15 11 A. Yes.

08:15 12 Q. And when does school let out?

08:15 13 A. May.

08:15 14 Q. Did you attend the summer session?

08:15 15 A. No.

08:15 16 Q. Okay.

08:15 17 THE COURT: Counsel?

08:15 18 MS. CORRIGAN: Thank you, Your Honor.

08:15 19 THE COURT: What was confusing me was the Spring

20 and the Fall.

08:15 21 MS. CORRIGAN: Understood, Your Honor. And I

22 would just ask the Court to just ask him one last question:

23 Whether knowing that there may have been some overlap with

24 Cypress College attendance, if that affects his fairness in

25 any way.

08:15 1 THE COURT: Yeah.

08:15 2 BY THE COURT:

08:15 3 Q. There may have been some overlap at the time -- the
4 reason that Counsel are asking is that there may be some
5 overlap at the time that you were at Cypress. And they
6 wanna make certain that there's -- if there's been contact
7 or you recognize either of defendants, that we know that.

08:16 8 Do you recognize either one of them?

08:16 9 A. No.

08:16 10 THE COURT: Counsel?

08:16 11 MS. CORRIGAN: Thank you, Your Honor.

08:16 12 THE COURT: All right.

08:16 13 Sir, thank you very much. If you'd go back in the
14 jury room, please.

08:16 15 MS. CORRIGAN: And, Your Honor, if I might --

08:16 16 *(Juror No. 6 exits the courtroom.)*

08:16 17 THE COURT: All right. Now, we're still on the
18 record.

08:16 19 And, Ms. Corrigan, your thoughts.

08:16 20 MS. CORRIGAN: Thank you.

08:16 21 Just for the record, I would like to indicate that,
22 based on the information that I have, it appears that they
23 did not have the same classes. They also may not'a been
24 there during the same time of the day. And it's my
25 understanding, without waiving the privilege, that my client

1 does not recognize this juror.

08:16 2 THE COURT: All right.

08:16 3 Mr. Lengyel-Leahu?

08:17 4 MR. LENGYEL-LEAHU: We have no objection,
5 Your Honor.

08:17 6 THE COURT: Government?

08:17 7 MS. HEINZ: Nothing further.

08:17 8 THE COURT: *(To the clerk:)* Then why don't we
9 bring in the jury, Deb.

08:17 10 Thank you very much.

08:17 11 MS. CORRIGAN: Thank you, Your Honor.

08:17 12 THE COURT: Thank you, Counsel.

08:17 13 I didn't mention, by the way, his five minutes
14 being late or ten minutes. He's here. Let's proceed.

08:18 15 *(In the presence of the jury.)*

08:18 16 THE COURT: Well, good morning. The jury's
17 present. The alternates are present. All counsel are
18 present. The parties are present. The defendants are
19 present.

08:18 20 Counsel, on behalf of the government, your next
21 witness, please.

08:18 22 MS. HEINZ: The government calls Special Agent
23 Thomas Ropel.

08:18 24 THE COURT: Thank you.

08:18 25 Mr. Ropel, if you'd step forward, please.

08:19 1 Thank you, sir. If you'd step forward between the
2 double doors, please. And now would you raise your right
3 hand.

08:19 4 **THOMAS ROPEL III, CALLED BY THE GOVERNMENT, SWORN**

08:19 5 THE WITNESS: Yes.

08:19 6 THE COURT: Thank you, sir. If you'd be kind
7 enough to walk along the side of this black curtain. The
8 entrance to the jury (*sic*) box is just to my left. It's
9 closest to the wall.

08:19 10 THE WITNESS: Thank you, Your Honor.

08:19 11 THE COURT: Then, sir, if you would be seated.

08:19 12 Would you please face the jury, sir. Please state
13 your full name; spell your last.

08:19 14 THE WITNESS: Name's Special Agent Thomas J.
15 Ropel, III. Last name spelled R-O-P-E-L.

08:19 16 THE COURT: Thank you.

08:19 17 Direct examination by the government.

08:19 18 Ms. Heinz.

08:19 19 **DIRECT EXAMINATION**

08:19 20 BY MS. HEINZ:

08:19 21 Q. Special Agent Ropel, where are you employed?

08:19 22 A. I'm employed by the Federal Bureau of Investigation in
23 the Los Angeles field office in the Orange County RA.

08:20 24 Q. What does "RA" stand for?

08:20 25 A. "RA" stands for Resident Agency.

08:20 1 Q. What is your position?

08:20 2 A. Position is Special Agent.

08:20 3 Q. And how long have you been with the FBI?

08:20 4 A. Been with the FBI for 14 years and one month.

08:20 5 Q. And what is the area that you work in?

08:20 6 A. I work in counterterrorism on the Joint Terrorism Task
7 Force.

08:20 8 Q. On May 21st, 2015, did you interview Defendant Muhanad
9 Badawi?

08:20 10 A. Yes.

08:20 11 Q. When you -- do you see him in this courtroom?

08:20 12 A. I do. Right there.

08:20 13 Q. Would you point, uh -- describe where he's sitting and
14 what he's wearing?

08:20 15 A. He's sitting to the left of Defense Attorney Kate
16 Corrigan, and he's wearing a gray suit with a blue shirt.

08:20 17 MS. HEINZ: Your Honor, may the record reflect
18 that the witness has identified Defendant Badawi?

08:20 19 THE COURT: The record will reflect that Agent
20 Ropel has identified Mr. Badawi.

08:20 21 BY MS. HEINZ:

08:20 22 Q. When you interviewed Defendant Badawi on May 21st,
23 2015, where were you?

08:21 24 A. We were at the FBI Orange County Resident Agency,
25 located at 4000 West Metropolitan Drive in Orange,

1 California.

08:21 2 Q. Did you interview him by yourself?

08:21 3 A. No, I did not.

08:21 4 Q. At the time of the interview, had Mr. -- had
5 Defendant Badawi been arrested?

08:21 6 A. Yes.

08:21 7 THE COURT: My apologies, Counsel.

08:21 8 *(To the jury:)* Ladies and gentlemen, could you
9 visit for just one moment.

08:21 10 Counsel, may I be excused? I'll be right back.

08:21 11 *(To the Jury:)* Just visit with yourselves.

08:21 12 MS. HEINZ: Yes.

08:22 13 *(Brief interruption in the proceedings.)*

08:22 14 THE COURT: Counsel, if you would like to
15 continue, please.

08:22 16 BY MS. HEINZ:

08:23 17 Q. Please look at what has been marked as Government's
18 Exhibit 1013. What is Government's Exhibit 1013?

08:23 19 A. This is "a" FBI Advice of Rights, or -- known as a
20 Miranda waiver.

08:23 21 Q. Did Defendant Badawi sign it?

08:23 22 A. Yes, he did.

08:23 23 MS. HEINZ: Your Honor, move to admit Government's
24 Exhibit 1015.

08:23 25 MS. CORRIGAN: No objection.

08:23 1 THE CLERK: 15 or 14?

08:23 2 MS. HEINZ: I'm sorry. 1013. I misspoke.

08:23 3 THE COURT: 1013 is received.

08:23 4 *(Exhibit No. 1013 received in evidence.)*

08:23 5 *(Exhibit displayed.)*

08:23 6 BY MS. HEINZ:

08:23 7 Q. Special Agent Ropel, will you please read the section

08:23 8 of Government's Exhibit 1013 that is titled "Consent."

08:23 9 MR. LENGYEL-LEAHU: Objection. Relevance,

08:23 10 Your Honor.

08:24 11 THE COURT: Counsel, I thought this has been

08:24 12 resolved.

08:24 13 MS. CORRIGAN: It has been, Your Honor, with a

08:24 14 motion that I filed earlier.

08:24 15 THE COURT: All right. Overruled.

08:24 16 You can ask, Counsel. "Consent."

08:24 17 BY MS. HEINZ:

08:24 18 Q. Consent. Would you please read the section of

08:24 19 Government's Exhibit 1013 that is titled "Consent."

08:24 20 A. *(Reading:)*

08:24 21 *"I have read this statement of my rights*

08:24 22 *and I understand what my rights are. At*

08:24 23 *this time I am willing to answer*

08:24 24 *questions without a lawyer present.*

08:24 25 *"Signed..."*

08:24 1 Q. During the interview did you talk to Defendant Badawi
2 about his knowledge about the Islamic State of Iraq and
3 Levant, also known as ISIL, also known as the Islamic State
4 of Iraq and Syria, also known as ISIS?

08:24 5 A. Yes, I did.

08:24 6 Q. Please look at what's been marked as Government's
7 Exhibits 1011 and 1011-A.

08:25 8 What is Government's Exhibit's 1011?

08:25 9 A. Government's Exhibit 1011 is a CD containing an audio
10 recording of an excerpt of the interview of Mr. Badawi.

08:25 11 Q. And what is Government's Exhibit 1011-A.

08:25 12 A. 1011-A is the verbatim transcription and translation of
13 an excerpt of the interview of Mr. Badawi on May 21st, 2015.

08:25 14 Q. Have you reviewed both Government's Exhibit 1011 and
15 1011-A?

08:25 16 A. Yes, I have.

08:25 17 Q. Do Government's Exhibits 1011 and 1011-A accurately
18 depict part of the interview of Defendant Badawi on
19 May 21st, 2015?

08:26 20 A. Yes.

08:26 21 MS. HEINZ: Move into evidence Government's
22 Exhibit 1011 and 1011-A.

08:26 23 MS. CORRIGAN: No objection.

08:26 24 THE COURT: 1011 and 1011-A are received.

08:26 25 *(Exhibit No. 1011 received in evidence.)*

08:26 1 *(Exhibit No. 1011-A received in evidence.)*

08:26 2 MS. HEINZ: Please play Government's Exhibit 1011.

08:30 3 *(Audio played.)*

08:30 4 *(Transcript displayed.)*

08:30 5 BY MS. HEINZ:

08:30 6 Q. Special Agent Ropel, at one point in this interview you

7 discuss with Defendant Badawi, a Jordanian pilot who was

8 burned alive. Would you please explain that reference.

08:30 9 A. Sure. On February 3rd, 2015, ISIS media --

08:30 10 THE COURT: Just a moment.

08:30 11 We're going to slow you way down, just --

08:30 12 THE WITNESS: Sure.

08:30 13 THE COURT: -- 'cause we need a record. So I'm --

08:30 14 THE WITNESS: Yes, Your Honor.

08:30 15 THE COURT: -- going to strike the answer.

08:30 16 Ask you to start again, please.

08:30 17 THE WITNESS: Okay. Yes, Your Honor.

08:30 18 On February 3rd, 2015, the ISIS media wing released

19 a video of a Jordanian pilot who was burned alive by ISIS

20 fighters, uh, in a metal cage.

08:30 21 BY MS. HEINZ:

08:30 22 Q. During the interview on May 21st, 2015, did you also

23 talk to Defendant Badawi about his Twitter page?

08:31 24 A. Yes, we did.

08:31 25 Q. And at the time of the interview, had you reviewed

1 Defendant Badawi's Twitter page?

08:31 2 A. Yes.

08:31 3 Q. Please look at what has been marked as Government's
4 Exhibits 1014 and 1015.

08:31 5 Was Government's Exhibit 1015 shown to Defendant Badawi
6 during the interview on May 21st, 2015?

08:31 7 A. Yes.

08:31 8 Q. What is Government's Exhibit '15 (*sic*)?

08:31 9 A. It is a screen shot of Mr. Badawi's Twitter page.

08:32 10 Q. And this was shown to him during the interview; is that
11 correct?

08:32 12 A. That's correct.

08:32 13 Q. Is Government's Exhibit '14 another screen shot of
14 Defendant Badawi's Twitter page?

08:32 15 A. Yes, it is. Just a different view of the page.

08:32 16 Q. Does Exhibit '14 accurately depict a different --
17 another screen shot of Defendant Badawi's Twitter page as it
18 existed at the time of the interview?

08:32 19 A. Yes, it does.

08:32 20 MS. HEINZ: Your Honor, move into evidence
21 Government's Exhibits 1014 and 1015.

08:32 22 MS. CORRIGAN: No objection.

08:32 23 THE COURT: 1014 and 1015 are received into
24 evidence.

08:32 25 (*Exhibit No. 1014 and 1015 received in evidence.*)

08:32 1 BY MS. HEINZ:

08:32 2 Q. Would you please show Government's Exhibit 1014.

08:32 3 *(Exhibit displayed.)*

08:32 4 BY MS. HEINZ:

08:32 5 Q. Looking at the photo that is in Government's

6 Exhibit 1014, do you see an individual who is known as Abu

7 Malik al-Tamimi?

08:32 8 A. Yes, I do.

08:33 9 Q. Describe where he is in the photo?

08:33 10 A. Al-Tamimi is on the far right of the screen, with his

11 hand pointing up in the air, with a lengthy beard.

08:33 12 Q. I've just drawn a circle around, I think, where you've

13 described on the screen. Is that correct? -- although it

14 looks like I've included too much here. Hold on.

08:33 15 *(Indicates.)* Have I drawn a circle around the person who

16 you identified as Abu Malik al-Tamimi?

08:33 17 A. Yes. That is Abu Malik al-Tamimi, also known as Anas.

08:33 18 *(Court reporter requests clarification for the*

19 *record.)*

08:34 20 THE WITNESS: It's Anas, A-N-A-S --

08:34 21 THE COURT: Just a moment. Pronounce that for us.

08:34 22 THE WITNESS: Yes, Your Honor. Anas.

08:34 23 Second name al-Nashwan, spelled A-L, N-A-S-H-W-A-N

24 Pronounced al-Nashwan.

08:34 25 THE COURT: And you gave us the first name.

08:34 1 THE WITNESS: Yes, Your Honor. His other name is
2 Abu --

08:34 3 THE COURT: Spell the first name, just to be
4 certain.

08:34 5 THE WITNESS: Yes, Your Honor.

08:34 6 A-B-U. Next name, Malik, M-A-L-I-K, al-Tamimi,
7 A-L, dash.

08:34 8 THE COURT: I'm sorry?

08:34 9 THE WITNESS: A-L, alpha, lima, dash, Tamimi
10 spelled, tango, alpha, mike, india, mike, india.

08:34 11 BY MS. HEINZ:

08:35 12 Q. Special Agent Ropel, the first part of this name, which
13 is Abu, A-B-U, is that sort of a naming convention of some
14 kind?

08:35 15 MS. CORRIGAN: Objection. Lack of foundation.

08:35 16 THE COURT: Sustained.

08:35 17 BY MS. HEINZ:

08:35 18 Q. Special Agent Ropel, how long have you been working
19 counterterrorism?

08:35 20 A. Fourteen years.

08:35 21 Q. And in that work have you developed an understanding of
22 naming conventions in Islam and in the Arabic countries?

08:35 23 A. Yes.

08:35 24 Q. Would you please tell us what the first part of that
25 name Abu, A-B-U, means?

08:35 1 A. Yes. In Arabic it means "father of." It's also known
2 in some organizations, such as terrorist groups, to be a
3 "kunya," or a code name for individuals within those
4 organizations.

08:35 5 Q. During the interview on May 21, 2015, did you discuss
6 Abu Malik al-Tamimi with Defendant Badawi?

08:35 7 A. Yes.

08:35 8 Q. Please look at what has been marked as Government's
9 Exhibits 1012 and 1012-A.

08:36 10 What is Government's Exhibit 1012?

08:36 11 A. Government's Exhibit 1012 is a CD containing audio
12 recording of an excerpt of the interview of Defendant Badawi
13 on May 21, 2015. (*Verbatim.*)

08:36 14 Q. And what is Government's Exhibit 1012-A?

08:36 15 A. It is a verbatim transcript, a translation of the
16 excerpt of the interview which is contained on exhibit 1012.

08:36 17 Q. Have you reviewed both 1012 and 1012-A?

08:36 18 A. Yes, I have.

08:36 19 Q. And do Government's Exhibit 1012 and 1012-A accurately
20 depict a segment of the interview on May 21st, 2015?

08:37 21 A. Yes.

08:37 22 MS. HEINZ: Your Honor, to move into evidence
23 Governments Exhibits 1012 and 1012-A.

08:37 24 MS. CORRIGAN: No objection.

08:37 25 THE COURT: 1012 and 1012-A are received into

1 evidence.

08:37 2 (Exhibit No. 1012 and 1012-A received in
3 evidence.)

08:37 4 MS. HEINZ: Please play.

08:37 5 (Audio played.)

08:37 6 (Transcript displayed.)

08:40 7 BY MS. HEINZ:

08:40 8 Q. All right. During the interview, Defendant Badawi
9 talked about Abu Malik al-Tamimi, and he told you that he
10 died on the battlefield in Syria.

08:40 11 Based on your knowledge; is that correct?

08:40 12 A. Yes.

08:40 13 Q. And he told you that he was part of the Islamic State.

08:40 14 Based on your knowledge; is that correct?

08:40 15 A. Yes.

08:40 16 Q. And he told you that he believed that he was -- that
17 al-Tamimi was previously with al-Qa'ida; is that correct?

08:41 18 A. Yes.

08:41 19 MR. LENGYEL-LEAHU: These are all leading,
20 Your Honor.

08:41 21 THE COURT: Sustained.

08:41 22 BY MS. HEINZ:

08:41 23 Q. All right. During the interview, Defendant Badawi
24 talked about al-Tamimi.

08:41 25 And do you know whether or not his statements that

1 al-Tamimi died on the battlefield, was part of the Islamic
2 State, and previously was al-Qa'ida -- do you know, based on
3 your knowledge, whether or not those statements were
4 correct?

08:41 5 A. Yes, they are correct.

08:41 6 Q. During part of this interview, Defendant Badawi states
7 that -- I'm sorry. Excuse me.

08:41 8 Was Defendant Badawi, during the interview, making any
9 distinction between the word "ISIS" and the word "the
10 Islamic State"?

08:41 11 A. No, he was not.

08:41 12 Q. Also during the interview did another FBI agent ask
13 Defendant Badawi whether the people in ISIS looked up to Abu
14 Malik al-Tamimi as a scholar? And how did Defendant Badawi
15 respond?

08:42 16 A. He was asked that question. And Defendant Badawi
17 replied, yes, that he was looked up to as a scholar in ISIS.

08:42 18 Q. Please look at what has been marked as Government's
19 Exhibits 1, 1-A, 2, 2-A, and 69.

08:42 20 THE COURT: So let me be certain.

08:42 21 1, 1-A, and 1-2-A (*sic*); is that correct?

08:42 22 MS. HEINZ: 1, 1-A, 2, 2-A and 69.

08:42 23 THE COURT: Thank you.

08:43 24 MS. HEINZ: For the record, we've previously heard
25 testimony that Government's Exhibit 69 is a disc containing

1 true copies of files on Government's Exhibit 601, which is
2 an iPhone that was seized from Defendant Badawi on May 21st,
3 2015.

08:43 4 BY MS. HEINZ:

08:43 5 Q. Special Agent Ropel, what are Government's Exhibits 1
6 and 2?

08:43 7 A. Government's Exhibit 1 --

08:43 8 THE COURT: Now I'm confused. I thought it was
9 1-1-A?

08:43 10 MS. HEINZ: Government's Exhibit 1 -- just "1."
11 Government's Exhibit 1 and then an "A," 1-A. And then
12 Government's Exhibit 2, and then 2-A.

08:44 13 THE COURT: So 1-A and 2-A?

08:44 14 MS. HEINZ: I'm sorry.

08:44 15 THE COURT: I'm gonna start again. It's my fault.
08:44 16 I'm gonna go right back to these exhibits again.

08:44 17 MS. CORRIGAN: And, Your Honor, also -- indicate
18 to the Court that -- at least my records show -- that 69 has
19 only been marked and not received.

08:44 20 THE CLERK: That's correct.

08:44 21 MS. CORRIGAN: And your clerk has indicated that
22 that's correct.

08:44 23 THE COURT: I have that as well.

08:44 24 All right. We're going to re-mark these exhibits
25 again. And my apologies. I didn't understand the marking.

08:44 1 BY MS. HEINZ:

08:44 2 Q. Special Agent Ropel, would you look at what's been
3 marked as Government's Exhibit 1.

08:44 4 A. Yes.

08:44 5 THE COURT: All right. Is this marked 1-A?

08:44 6 MS. HEINZ: No. Just "1."

08:44 7 BY MS. HEINZ:

08:44 8 Q. Special Agent Ropel, would you look at Government's
9 Exhibit 1 -- what has been marked as Government's Exhibit 1.

08:45 10 THE COURT: I think what's getting confusing are
11 the A markings.

08:45 12 So you have Exhibit 1. And you also have an
13 Exhibit 1-A; is that correct?

08:45 14 MS. HEINZ: That's correct, Your Honor.

08:45 15 THE COURT: All right. I apologize. I marked it
16 down as 1-1-A meaning 11-A.

08:45 17 So you have 1 and 1-A.

08:45 18 You have 2 and 2-A.

08:45 19 And you have 69.

08:45 20 MS. HEINZ: That's correct.

08:45 21 THE COURT: All right.

08:45 22 Please proceed. Thank you.

08:45 23 BY MS. HEINZ:

08:45 24 Q. Special Agent Ropel, what is Government -- what has
25 been marked as Government's Exhibit 1?

08:45 1 A. This is a CD containing a QuickTime video, which was
2 found on Mr. Badawi's phone. It is a video of Mr. Badawi
3 and Mr. Elhuzayel talking about their religion.

08:45 4 Q. And what is Government's Exhibit 1-A?

08:45 5 A. Government's Exhibit 1-A is a transcript of the video,
6 which is included on Exhibit 1.

08:46 7 Q. And have you compared Government's Exhibit 1, which is
8 the video you just described, to the files that are on
9 Government's Exhibit 69?

08:46 10 A. Yes, I have.

08:46 11 Q. And are they -- is Government's Exhibit 1 an exact copy
12 of a file that is on Government's Exhibit 69?

08:46 13 A. Yes, it is.

08:46 14 MS. HEINZ: And, just for the record, we've heard
15 previous testimony that the files on Government's Exhibit 69
16 are true copies of files on Government's Exhibit 601, which
17 is an iPhone that was seized from Defendant Badawi on
18 May 21st 2015.

08:46 19 BY MS. HEINZ:

08:46 20 Q. Special Agent Ropel, are your initials on Government's
21 Exhibit 1?

08:47 22 A. Yes, they are.

08:47 23 Q. And what does that tell you?

08:47 24 A. It tells me this is the actual CD that I viewed and
25 listened to for accuracy.

08:47 1 Q. All right. Who, if anyone, is depicted on Government's
2 Exhibit 1?

08:47 3 A. Defendant Elhuzayel is depicted on Exhibit 1.

08:47 4 Q. Do you see that person in the courtroom?

08:47 5 A. Yes, I do.

08:47 6 Q. Where is he?

08:47 7 A. He's sitting to the right of his defense attorney, in
8 the back over there. *(Indicating.)* I'm pointing to him
9 right now.

08:47 10 MS. HEINZ: Your Honor, may the record reflect
11 that the witness has identified the Defendant Elhuzayel.

08:47 12 THE COURT: The record will so reflect.

08:47 13 BY MS. HEINZ:

08:47 14 Q. On Government's Exhibit 1, can you hear the voice of a
15 second individual who is off camera?

08:47 16 A. Yes, I can.

08:48 17 Q. Were you able to identify that individual?

08:48 18 A. Yes.

08:48 19 Q. I'm going to ask you some questions about when you have
20 heard that person's voice?

08:48 21 A. Yes.

08:48 22 Q. Okay. Have you spoken with this individual in person?

08:48 23 A. Yes.

08:48 24 Q. When?

08:48 25 A. On May 21st, 2015.

08:48 1 Q. How long did you speak to him in person?

08:48 2 A. Two hours and 27 minutes.

08:48 3 Q. The FBI interview that you're talking about of
4 Defendant Badawi was recorded on video?

08:48 5 A. Yes.

08:48 6 Q. You watched and listened to that video since the
7 interview? (*Verbatim.*)

08:48 8 A. Yes.

08:48 9 Q. When you watched and listened to the video, did you see
10 Defendant Badawi speaking and hear Defendant Badawi's voice
11 throughout the video of the interview?

08:48 12 A. Yes.

08:48 13 Q. How many times have you watched the video?

08:48 14 A. Watched the full video more than 10 times. I've
15 watched certain excerpts over 30 times.

08:48 16 Q. When you watched and listened to the video, was
17 Defendant Badawi's voice the same voice that you heard when
18 you heard Defendant Badawi speak in person?

08:49 19 A. Yes.

08:49 20 MR. LENGYEL-LEAHU: Objection. Leading,
21 Your Honor.

08:49 22 THE COURT: No. Overruled.

08:49 23 (*To the witness:*) You can answer that question.

08:49 24 BY MS. HEINZ:

08:49 25 Q. When you watched and listened to the video, was

1 Defendant Badawi's voice the same voice that you heard when
2 you talked to Defendant Badawi in person?

08:49 3 A. Yes.

08:49 4 MR. LENGYEL-LEAHU: Objection, Your Honor. Vague.
5 Which video?

08:49 6 MS. HEINZ: Government's Exhibit -- when I talk
7 about the video, I'm talking about the full -- when I'm
8 talking about the video, I'm talking about the video of the
9 post-arrest statement of Defendant Badawi.

08:49 10 THE COURT: Is that 69?

08:49 11 MS. HEINZ: No, Your Honor.

08:49 12 THE COURT: Is it in 1?

08:50 13 MS. HEINZ: That -- the -- that is the video from
14 which the excerpts that we have just watched, 1011 and 1012,
15 were taken.

08:50 16 THE COURT: So you're referring to -- all right.
17 The entire -- 69 are the iPhone conversations?

08:50 18 MS. HEINZ: Yes, Your Honor.

08:50 19 THE COURT: Okay. Are you referring back to 1011?

08:50 20 MS. HEINZ: No, Your Honor.

08:50 21 Can I ask a few more questions?

08:50 22 THE COURT: Please.

08:50 23 MS. HEINZ: Maybe this will clarify.

08:50 24 BY MS. HEINZ:

08:50 25 Q. Special Agent Ropel, when you interviewed

1 Defendant Badawi on May 21st, 2015, how long was that
2 interview?

08:50 3 A. Two hours and 27 minutes.

08:51 4 THE COURT: Okay.

08:51 5 BY MS. HEINZ:

08:51 6 Q. Was it videotaped?

08:51 7 A. Yes.

08:51 8 Q. How long is the videotape?

08:51 9 A. The portion where I was present in the room talking
10 with him was 2 hours, 27 minutes. The full videotape was
11 over two -- 2 hours, 35 minutes. I can't recall the exact
12 time.

08:51 13 THE COURT: Just a moment. Is that full videotape
14 marked with an exhibit number?

08:51 15 MS. HEINZ: No, Your Honor.

08:51 16 THE COURT: That's okay. In other words, it
17 hasn't been marked so far?

08:51 18 MS. HEINZ: That's correct, Your Honor.

08:51 19 THE COURT: There's the confusion.

08:51 20 MS. HEINZ: That's correct.

08:51 21 THE COURT: Please continue.

08:51 22 BY MS. HEINZ:

08:51 23 Q. Now, have you watched that video? -- the video of the
24 full -- your interview with Defendant Badawi on May 21st,
25 2015?

08:51 1 A. I have watched that over ten times.

08:51 2 Q. And when you watched it, could you hear

3 Defendant Badawi speaking clearly?

08:51 4 A. Yes.

08:51 5 Q. Could you see Defendant Badawi speaking on the video?

08:51 6 A. Yes.

08:51 7 Q. When you watched the video and you saw Defendant Badawi

8 speaking and you heard Defendant Badawi speaking, was that

9 the same voice that you heard when you interviewed

10 Defendant Badawi in person on May 21st, 2015?

08:52 11 A. Yes.

08:52 12 Q. Have you also listened to telephone calls that were

13 made on Defendant Elhuzayel and Badawi's phones?

08:52 14 A. Yes.

08:52 15 Q. In some of these calls, did Defendant Badawi identify

16 himself by name?

08:52 17 A. Yes.

08:52 18 Q. How many calls?

08:52 19 MR. LENGYEL-LEAHU: Objection, Your Honor.

08:52 20 MS. CORRIGAN: Objection. Lack of foundation.

08:52 21 THE COURT: What's missing foundationally?

08:52 22 MS. CORRIGAN: We don't know that the person on

23 the phone was actually Badawi. We know someone might have

24 said that he's Badawi, but we don't have that foundation at

25 this point.

08:52 1 THE COURT: What exhibit number are these calls?
2 In other words, since they were divided out, what exhibit
3 number are these calls?

08:53 4 MS. HEINZ: Your Honor, these calls have not been
5 introduced yet.

08:53 6 THE COURT: I understand that.

08:53 7 MS. HEINZ: But these calls --

08:53 8 THE COURT: Do they have an exhibit number?

08:53 9 MS. HEINZ: Yes. These calls would be -- sorry --
10 these calls would be 701. There's a lot. There's a long
11 list here.

08:53 12 THE COURT: 701.

08:53 13 MS. HEINZ: 701, 702, 715, 716, 732, 734, 737,
14 741, 742, 743, 744, 745, 746, 747, 749, 750, 751, 752, 753,
15 754, 755, 756, 757, 758, 759.

08:54 16 THE COURT: Okay. And you're asking if these are
17 the same calls that he's listened to and can identify the
18 voice on those calls with the voice that he heard emanating
19 from Mr. Badawi when he questioned him?

08:54 20 MS. HEINZ: I'm asking him, when he listened to
21 the telephone calls --

08:54 22 THE COURT: Okay. These -- number 701 through
23 759?

08:55 24 MS. HEINZ: Yes.

08:55 25 -- asking him, in some of these calls -- and I'll

1 rephrase.

08:55 2 BY MS. HEINZ:

08:55 3 Q. In some of these calls, did a person on the call
4 identify himself as Defendant Badawi?

08:55 5 THE COURT: Okay. And the objection was lack of
6 foundation?

08:55 7 MS. CORRIGAN: Well, Your Honor, at this juncture
8 the question's different, so I -- there's no objection.

08:55 9 THE COURT: All right. Please continue.

08:55 10 BY MS. HEINZ:

08:55 11 Q. Special Agent Ropel, the telephone calls that you
12 listened to, on some of these calls did a person identify
13 himself by name?

08:55 14 A. Yes.

08:55 15 Q. And did that person identify himself as Muhanad Badawi
16 or some variation of that name?

08:55 17 A. Yes.

08:55 18 Q. In how many of the calls did the person do that?

08:55 19 A. I recall now one that I can remember at this time.

08:55 20 Q. In some of these telephone calls did someone else
21 address a person on the call by Muhanad or Muhanad Badawi or
22 another variation of his name?

08:56 23 A. Yes.

08:56 24 Q. How many calls?

08:56 25 A. Over ten.

08:56 1 Q. When you listened to these telephone calls, including
2 the calls in which Defendant Badawi was identified by name,
3 did you recognize that the voice on the call of the person
4 who was identified by name as Defendant Badawi when -- when
5 you heard that voice, did you know -- or did you recognize
6 that that was the same voice as you heard when you
7 interviewed Defendant Badawi in person?

08:56 8 MR. LENGYEL-LEAHU: Leading, Your Honor.

08:56 9 THE COURT: Overruled.

08:56 10 MS. CORRIGAN: Lack foundation. *(Verbatim.)*

08:56 11 THE COURT: Overruled.

08:56 12 *(To the witness:)* You can answer that question.

08:56 13 THE WITNESS: Yes.

08:56 14 BY MS. HEINZ:

08:56 15 Q. And when you heard the voice on these calls, did you
16 also recognize that that was the same voice as the person --

08:57 17 THE COURT: That's a statement, Counsel. Reask
18 the question.

08:57 19 MS. HEINZ: Sorry.

08:57 20 BY MS. HEINZ:

08:57 21 Q. When you listened to the calls and you compared them to
22 the video of the Defendant Badawi interview on May 21st,
23 2015, did you recognize the voice as being the same?

08:57 24 MS. CORRIGAN: Objection. Misstates the evidence.

08:57 25 THE COURT: And what is the misstatement?

08:57 1 MS. CORRIGAN: My understanding of what the
2 testimony has been so far is there is no information that
3 indicates that there's been a comparison made by this agent,
4 Agent Ropel, of the videotape to the telephone calls.
5 That's not in evidence at this juncture.

08:57 6 MS. HEINZ: I'll ask the question, Your Honor.

08:58 7 THE COURT: Please.

08:58 8 BY MS. HEINZ:

08:58 9 Q. Special Agent Ropel, you've testified that you have
10 watched the video of the May 21st, 2015, interview over ten
11 times.

08:58 12 A. Yes.

08:58 13 Q. And you've testified that you also listened to
14 telephone calls?

08:58 15 A. Yes.

08:58 16 Q. Did you compare the voice on the telephone call with
17 the voice on the video of the interview?

08:58 18 A. Yes.

08:58 19 Q. And did it appear to you -- did you decide that those
20 voices were the same?

08:58 21 A. Yes.

08:58 22 Q. And, particularly, the voice of Defendant Badawi that
23 was on the video for May 21st, 2015, did you also hear that
24 same voice in the telephone calls?

08:58 25 A. Yes.

08:58 1 MR. LENGYEL-LEAHU: Again, objection, Your Honor.
2 There's no foundation.

08:58 3 THE COURT: Overruled.

08:58 4 BY MS. HEINZ:

08:58 5 Q. Have you listened to post-arrest recorded conversations
6 in which Defendant Badawi identified himself by name?

08:59 7 A. Yes, I have.

08:59 8 Q. How many conversations?

08:59 9 A. Listened to eight of those.

08:59 10 Q. When you listened to these conversations, these
11 post-arrest recorded conversations in which Defendant Badawi
12 identified himself by name, did you recognize it was the
13 same voice as the person you spoke to in person; that is,
14 Defendant Badawi?

08:59 15 A. Yes.

08:59 16 MR. LENGYEL-LEAHU: Again, Your Honor, lack of
17 foundation.

08:59 18 THE COURT: It's also leading and it's also
19 directive. I'm going to sustain the objection.

08:59 20 You can ask him if it is. But you're telling him
21 it is. So I'm going to strike the answer.

08:59 22 *(To the jury:)* You're to disregard the answer,
23 ladies and gentlemen.

08:59 24 MR. LENGYEL-LEAHU: Thank you.

08:59 25 THE COURT: All right.

08:59 1 Counsel.

08:59 2 BY MS. HEINZ:

08:59 3 Q. When you listened to the post-arrest recorded
4 conversations in which Defendant Badawi identified himself
5 by name -- and you said you've listened to eight of those?

09:00 6 A. Yes.

09:00 7 Q. And you also said that you have watched the video --
8 the video of the May 21st, 2015 interview.

09:00 9 Did you compare the voice on the 2015 interview, the
10 video, to the voice on the post-arrest, recorded phone
11 calls?

09:00 12 A. Yes. It was consistent with Mr. Badawi's voice.

09:00 13 MR. LENGYEL-LEAHU: Objection, Your Honor. Move
14 to strike. This witness does not have foundation. He's
15 rendering an opinion that's for the jury to decide.

09:00 16 THE COURT: It was also volunteered. I'm going to
17 strike the answer.

09:00 18 Counsel, you can continue.

09:00 19 MR. LENGYEL-LEAHU: Thank you.

09:00 20 MS. CORRIGAN: For the record, I'm joining in
21 these objections.

09:00 22 THE COURT: The answer is stricken.

09:00 23 *(To the jury:)* Ladies and gentlemen, disregard it,
24 please.
25

09:01 1 BY MS. HEINZ:

09:01 2 Q. You interviewed Defendant Badawi in person?

09:01 3 MR. LENGYEL-LEAHU: Asked and answered.

09:01 4 BY MS. HEINZ:

09:01 5 Q. You -- I'm sorry.

09:01 6 And you have testified that you reviewed the video of

09:01 7 him speaking?

09:01 8 MR. LENGYEL-LEAHU: Asked and answered.

09:01 9 THE COURT: Overruled.

09:01 10 BY MS. HEINZ:

09:01 11 Q. Is that correct?

09:01 12 A. Yes, that's correct.

09:01 13 Q. And you have testified that you have listened to

09:01 14 telephone calls in which a person identified themselves as

09:01 15 Defendant Badawi, or someone else identified him as

09:01 16 Defendant Badawi?

09:01 17 A. Yes.

09:01 18 Q. And you have stated that you listened to post-arrest

09:01 19 recordings in which you recognized a voice?

09:01 20 A. Yes.

09:01 21 Q. And you recognized a voice as Defendant Badawi?

09:01 22 MR. LENGYEL-LEAHU: Objection, Your Honor.

09:01 23 MS. CORRIGAN: Objection, Your Honor.

09:01 24 THE COURT: I'm gonna sustain the objection. It's

09:01 25 leading. I'm going to strike the answer.

09:01 1 You can ask him if he made a comparison, Counsel.

09:01 2 MS. HEINZ: Thank you.

09:01 3 THE COURT: We'll get the answer from him, not
4 from you.

09:01 5 *(To the jury:)* So the answer is stricken. The
6 leading questions are stricken. They're directive. They're
7 directing the agent to answer in response to counsel.

09:02 8 I want to hear from this agent, and so do you.

09:02 9 BY MS. HEINZ:

09:02 10 Q. Special Agent Ropel, have you compared the voices on --
11 when you interviewed Defendant Badawi in person, have you
12 compared all those voices, all those recordings that we've
13 been talking about?

09:02 14 A. Yes.

09:02 15 Q. In person, the video of the interview, the POST arrest
16 recorded conversations, the voices -- the voice on
17 Government's Exhibit 1, have you compared all those voices?

09:02 18 A. Yes. Yes, I have.

09:02 19 Q. And have you made a conclusion about whose voice it is
20 off camera on Government's Exhibit 1?

09:02 21 A. Yes, I have.

09:02 22 MS. CORRIGAN: Lack of foundation.

09:02 23 THE COURT: Overruled.

09:02 24 BY MS. HEINZ:

09:02 25 Q. What is that conclusion?

09:02 1 A. That it's Defendant Badawi talking to
2 Defendant Elhuzayel.

09:02 3 MR. LENGYEL-LEAHU: Objection, Your Honor. Move
4 to strike. Lack of foundation.

09:02 5 THE COURT: Overruled.

09:03 6 MS. HEINZ: Your Honor, government moves
7 Exhibits 1 and 1-A into evidence.

09:03 8 THE COURT: Over objection, Counsel?

09:03 9 MS. CORRIGAN: Yes.

09:03 10 THE COURT: 1 and 1-A are received.

09:03 11 *(Exhibit No. 1 and 1-A received in evidence.)*

09:03 12 MR. LENGYEL-LEAHU: Join in that objection.

09:03 13 THE COURT: Thank you.

09:03 14 MS. HEINZ: Please play Government's Exhibit 1.
09:03 15 *(Video played.)*
09:03 16 *(Transcript displayed.)*

09:08 17 BY MS. HEINZ:

09:08 18 Q. Special Agent Ropel, what does the term "Salifi" mean?

09:08 19 A. *Salifi* is a sect of Sunni Islam which is generally very
20 conservative. The Sunni Muslims that believe the *Salifi*
21 ideology essentially believe should live their ways in Islam
22 like the Prophet Muhammad did several hundred years ago.

09:09 23 During the interview with Badawi, he mentioned that --

09:09 24 MS. CORRIGAN: Objection. Nonresponsive. Move to
25 strike that portion of a answer: "During the interview."

09:09 1 THE COURT: The answer's complete at that point.
09:09 2 Counsel, your next question.
09:09 3 BY MS. HEINZ:
09:09 4 Q. Special Agent Ropel, did Defendant Badawi talk about
09:09 5 "Salifis" during the post-arrest interview?
09:09 6 A. Yes, he did.
09:09 7 Q. What did he say?
09:09 8 A. He said that the Islamic State are *Salifists*.
09:09 9 MS. HEINZ: And, Your Honor, I'm not sure I moved
09:09 10 into evidence 1-A, so at this time I would do that.
09:09 11 THE COURT: I received 1 and 1-A, Counsel.
09:09 12 MS. HEINZ: Thank you.
09:09 13 BY MS. HEINZ:
09:09 14 Q. Special Agent Ropel, what does the term "Muslim
09:09 15 Brotherhood" mean?
09:09 16 A. Muslim Brotherhood is a movement or organization that
09:09 17 was founded in Egypt in 1928 by --
09:09 18 *(Court reporter requests clarification for the*
09:09 19 *record.)*
09:09 20 THE WITNESS: By Hassan al-Banna, spelled
09:09 21 H-A-S-S-A-N, last name, A-L, dash, B-A-N-N-A.
09:10 22 THE COURT: Was it B or D?
09:10 23 THE WITNESS: B as in bravo.
09:10 24 THE COURT: Spell it again slowly.
09:10 25 THE WITNESS: Yes, sir.

09:10 1 Bravo, Alpha, November, November, Alpha.

09:10 2 THE COURT: All right. Thank you.

09:10 3 THE WITNESS: Yes, Your Honor.

09:10 4 Founded by Hassan al-Banna in 1928. It's a Sunni

5 Muslim movement in Egypt, uh, that's been around for several

6 years. And it's still -- uh, still maintains much (*sic*)

7 membership as of today.

09:10 8 BY MS. HEINZ:

09:10 9 Q. Would you please look at what has been marked as

10 Government's Exhibit 2 and 2-A.

09:10 11 What is Government's Exhibit 2?

09:10 12 A. Government's Exhibit 2 is a CD containing a QuickTime

13 video that came from Mr. Badawi's iPhone. This is a video

14 where Defendant Elhuzayel pledges allegiance to Islamic

15 State and Abu Bakr al-Baghdadi.

09:11 16 Q. Have you reviewed Government's Exhibit 2?

09:11 17 A. Yes.

09:11 18 Q. How do you know?

09:11 19 A. There's initials on this CD, which are my initials.

09:11 20 Q. Have you compared Government's Exhibit 2 to a file that

21 is on Government's Exhibit 69?

09:11 22 A. Yes, I have.

09:11 23 Q. And what did you find out by that comparison?

09:11 24 A. They're true and accurate copies.

09:11 25 Q. Have you also reviewed Government's Exhibit 2-A?

09:11 1 A. Yes.

09:11 2 Q. And what did you conclude when did you that?

09:11 3 A. This is a verbatim transcript from the video --

4 QuickTime video which is contained on Exhibit No. 2.

09:11 5 Q. On Government's Exhibit 2, when you reviewed it, did

6 you hear the voice of another person off-camera?

09:11 7 A. Yes.

09:11 8 Q. Were you able to identify that person's voice?

09:12 9 A. Yes.

09:12 10 Q. Who is that person?

09:12 11 A. It was --

09:12 12 MR. LENGYEL-LEAHU: Object --

09:12 13 THE WITNESS: -- Defendant Badawi.

09:12 14 MR. LENGYEL-LEAHU: Objection, Your Honor.

15 Foundation.

09:12 16 THE COURT: Overruled.

09:12 17 BY MS. HEINZ:

09:12 18 Q. You said it was Defendant Badawi?

09:12 19 A. Yes.

09:12 20 MS. HEINZ: Your Honor, move into evidence

21 Government's Exhibits 2 and 2-A.

09:12 22 THE COURT: 2 and 2-A are received.

09:12 23 *(Exhibit No. 2 and 2-A received in evidence.)*

09:12 24 MS. HEINZ: *(To technician:)* Would you please

25 play.

09:12 1 (Video played.)

09:12 2 (Transcript displayed.)

09:13 3 BY MS. HEINZ:

09:13 4 Q. Special Agent Ropel, during the beginning of the video

5 that is Government's Exhibit 2-A, there is sort of an

6 introduction. What language is that in? Do you recognize

7 it?

09:13 8 A. That's in Arabic.

09:13 9 Q. And was that Defendant Badawi saying that?

09:14 10 A. Yes, it was.

09:14 11 Q. And also during the interview, did you hear the word

12 "ameen"?

09:14 13 A. Yes, I did.

09:14 14 Q. And the spoken word "ameen," does it have an

15 English-language equivalent?

09:14 16 A. It's similar to "amen," which we know in the English

17 language.

09:14 18 Q. Please look at the disc that is in the folder for

19 Government's Exhibit 701. Does the disc that is in the

20 folder for Government's Exhibit 701 -- does it actually

21 contain multiple recordings that have been designated as

22 separate exhibits?

09:15 23 A. Yes, it does.

09:15 24 Q. And have you listened to all of the audio recordings

25 that are on the disc that is in the folder for Government's

1 Exhibit 701?

09:15 2 A. Yes, I have.

09:15 3 Q. How do you know that?

09:15 4 A. Because there's an initial on the disc which is mine,
5 and I recall this disc.

09:15 6 Q. Does the disc that you have initialed contain the audio
7 recordings that have been marked as --

09:15 8 MS. HEINZ: And this is going to be a list,
9 Your Honor.

09:15 10 BY MS. HEINZ:

09:15 11 Q. -- governments Exhibits 701, 702, 714, 715, 716, 732,
12 734, 737, 741, 742, 743, 744, 745, 746, 747, 749, 750, 751,
13 752, 753, 754, 755, 756, 757, 758 and 759?

09:16 14 A. Yes, that is correct.

09:16 15 THE COURT: And is all that contained in 701?

09:16 16 MS. HEINZ: All those are contained on the disc
17 that is in the folder marked as 701.

09:17 18 THE COURT: All right. The folder's marked as
19 701. And then one of those you called out, the first one,
20 is 701.

09:17 21 MS. HEINZ: Yes. Yes, Your Honor. The disc
22 actually contained multiple recordings.

09:17 23 THE COURT: I understand that.

09:17 24 Let me say it again. You have an exhibit marked
25 701, but then you called out a number of different

1 conversations apparently. And the first one you called was
2 701, 702, 714.

09:17 3 Is 701 a conversation?

09:17 4 MS. HEINZ: Yes.

09:17 5 THE COURT: So the exhibit -- the entire exhibit
6 is 701, and a portion of that you also have labeled as 701,
7 one of the conversations?

09:17 8 MS. HEINZ: Yes.

09:17 9 THE COURT: Okay.

09:17 10 MS. HEINZ: Yes.

09:17 11 THE COURT: All right.

09:17 12 MS. HEINZ: Yes, yes.

09:17 13 BY MS. HEINZ:

09:17 14 Q. All right. The disc that is in the folder that is
15 marked 701, have you compared the audio recordings on this
16 disc to audio recordings stored in the FBI database?

09:18 17 A. Yes, I have.

09:18 18 Q. And are the recordings the same?

09:18 19 A. They are.

09:18 20 Q. Could you please look at what has been admitted already
21 as Government's Exhibit 760 and 761.

09:18 22 MS. HEINZ: And if you could please show 760,
23 please.

09:18 24 *(Exhibit displayed.)*
25

09:18 1 BY MS. HEINZ:

09:18 2 Q. Looking at the exhibit which is 760, which is a chart
3 of the audio recordings from Telephone No. (714)270-3532 --
4 which has already been identified as being used by
5 Defendant Elhuzayel -- did you use this chart, which is
6 Government's Exhibit 760, when you were reviewing the audio
7 recordings?

09:19 8 A. Yes, I did.

09:19 9 Q. And looking down at this chart, the first column is
10 exhibit numbers; the second column says "SID" at the top.

09:19 11 Is that the internal number for the FBI database that
12 refers to each call?

09:19 13 A. Yes, it is.

09:19 14 Q. And the dates, the start times, and the contact numbers
15 also on this chart, did you use that when you were reviewing
16 the calls?

09:19 17 A. Yes, I did.

09:19 18 Q. And turning now to Government's Exhibit 761, which is a
19 chart of audio recordings from Telephone No. (714)757-7815,
20 Which is used by Defendant Badawi.

09:19 21 *(Exhibit displayed.)*

09:19 22 BY MS. HEINZ:

09:19 23 Q. Same questions. Okay? Were you guided by both the
24 exhibit number and the column that says SID number, which is
25 the number for the internal database for the FBI?

09:20 1 A. Yes.

09:20 2 Q. When you listened to the audio recordings that are on
3 the disc that is in the folder for Government's Exhibit 701,
4 did you hear Defendant Badawi's voice on these recordings?

09:20 5 A. Yes.

09:20 6 Q. And did you hear Defendant Elhuzayel's voice on these
7 recordings?

09:20 8 A. Yes, I did.

09:20 9 MR. LENGYEL-LEAHU: Objection, Your Honor. Lack
10 of foundation.

09:20 11 THE COURT: Overruled.

09:20 12 *(To the witness:)* You can answer the question.

09:20 13 THE WITNESS: *(No response.)*

09:20 14 BY MS. HEINZ:

09:20 15 Q. And when you reviewed the transcripts of these calls
16 which all have "A" numbers --

09:20 17 MS. HEINZ: And, Your Honor, if you wish, I'll go
18 through the numbers for the "A" numbers.

09:21 19 THE COURT: Well, do each of the "A" numbers match
20 up with -- like 701 and 701-A?

09:21 21 MS. HEINZ: Yes, Your Honor.

09:21 22 THE COURT: Counsel, can it be deemed that 701
23 through 759, that was previously called out, have "A"
24 numbers attached to each also?

09:21 25 MS. CORRIGAN: They do, Your Honor.

09:21 1 MR. LENGYEL-LEAHU: Stipulate, Your Honor.

09:21 2 THE COURT: All right.

09:21 3 Counsel, thank you.

09:21 4 BY MS. HEINZ:

09:21 5 Q. And when you listened to the calls that are on the disc

6 that is in Government's -- that is in the folder marked

7 "Government's Exhibit 701," did you compare that to

8 transcripts of those calls that have been marked with

9 corresponding numbers but with a capital "A" after them?

09:21 10 A. Yes.

09:21 11 Q. And are the voice identifications in the transcripts

12 correct?

09:21 13 A. Yes, they are.

09:21 14 MR. LENGYEL-LEAHU: Objection, Your Honor. Lack

15 of foundation.

09:21 16 THE COURT: Well, he's identified by comparison

17 and for foundation purposes Badawi and Elhuzayel.

09:22 18 When you say "voice identifications," are there

19 other voices?

09:22 20 MS. HEINZ: Yes, Your Honor. Although --

09:22 21 THE COURT: We need a foundation for those --

09:22 22 MS. HEINZ: Yes, Your Honor.

09:22 23 THE COURT: -- if he recognizes those.

09:22 24 MS. HEINZ: Thank you, Your Honor.

09:22 25 MR. LENGYEL-LEAHU: If I may, Your Honor. He's

1 never identified that he'd ever spoken to my client. We
2 discussed --

09:22 3 THE COURT: Well, he's compared conversations --

09:22 4 MS. HEINZ: Your Honor --

09:22 5 THE COURT: -- with your client with the
6 photograph or the visual of your client in those
7 photographs, so I'm allowing him to make those comparisons,
8 Counsel.

09:22 9 Overruled.

09:22 10 BY MS. HEINZ:

09:22 11 Q. In a few -- actually, we can do it this way.

09:22 12 In a few of these telephone calls, can you hear other
13 people on them?

09:22 14 A. Yes.

09:22 15 Q. Okay. In some of these phone calls, can you hear the
16 voice of a female?

09:23 17 A. Yes.

09:23 18 Q. And have you -- did you recognize that voice?

09:23 19 A. I did.

09:23 20 Q. And why is it that you recognize that voice?

09:23 21 A. The voice was of Defendant Elhuzayel's mother, Falak.
22 The reason I recognize that voice is 'cause I've seen videos
23 of her that've been on the Internet. I've heard her voice
24 personally, and I've heard other recorded conversations
25 where she's identified herself is a Falak Elhuzayel.

09:23 1 MS. HEINZ: All right. Your Honor, at this time
2 we'd like to play Government's Exhibit 701.

09:23 3 THE COURT: You may play 701.

09:23 4 *(Audio played.)*

09:23 5 *(Transcript displayed.)*

10:10 6 BY MS. HEINZ:

10:10 7 Q. Special Agent Ropel, during the conversation we just
8 heard, an individual by the name of Ayman al-Zawahiri was
9 discussed. Who is that?

10:10 10 A. Ayman al-Zawahiri is the leader of al-Qa'ida since
11 May 2011.

10:10 12 Q. And during the conversation we just heard, defendants
13 discuss al-Jazeera. What is al-Jazeera?

10:11 14 A. Al-Jazeera is a televisions station, a media channel
15 that was -- it's based in Doha, Qatar, the country of Qatar.
16 It's been around since 1976. And it publishes, uh -- most
17 the news in the Arab world and the Middle East.

10:11 18 Q. Also during the conversations, the defendants discuss
19 al-Adnani. Who is that?

10:11 20 A. Al-Adnani is the media person -- the head of the ISIS
21 media branch in Syria.

10:11 22 Q. And also during the conversation, the defendants
23 discuss *Jannah al-Firdaws*?

10:11 24 A. *Jannah al-Firdaws* in the Islamic religion, it's
25 referred to as Heaven, where you go to when you die as a

1 martyr or *Shaheed*.

10:11 2 MS. HEINZ: Your Honor, at this time the
3 government would like to play Exhibit 702.

10:11 4 THE COURT: Why don't we take a recess at this
5 time.

10:12 6 (*To the jury:*) Ladies and gentlemen, you're
7 admonished not to form or express any opinion concerning
8 this case. We'll come back and get you in about 20 minutes.
9 Okay?

10:12 10 Have a good recess.

10:12 11 (*Outside the presence of the jury.*)

10:12 12 THE COURT: All right.

10:12 13 Then, Counsel, 20 minutes.

10:12 14 MS. HEINZ: Thank you, Your Honor.

10:12 15 THE COURT: (*To the witness:*) You may step down.
16 We'll see you in 20 minutes.

10:12 17 THE WITNESS: Thank you, sir.

10:12 18 (*Recess held at 10:12 a.m.*)

10:12 19 (*Further proceedings reported by Deborah Parker*
20 *in Volume II.*)

10:12 21 -oOo-

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24

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10:12 1 -oOo-

10:12 2
10:12 3 CERTIFICATE

10:12 4
10:12 5 I hereby certify that pursuant to Section 753,
10:12 6 Title 28, United States Code, the foregoing is a true and
10:12 7 correct transcript of the stenographically reported
10:12 8 proceedings held in the above-entitled matter and that the
10:12 9 transcript page format is in conformance with the
10:12 10 regulations of the Judicial Conference of the United States.

10:12 11
10:12 12 Date: March 28, 2017

10:12 13
10:12 14 /s/ Debbie Gale

10:12 15
10:12 16 DEBBIE GALE, U.S. COURT REPORTER
10:12 17 CSR NO. 9472, RPR, CCRR

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DEBBIE GALE, U.S. COURT REPORTER